



STATE OF TENNESSEE
CENTRAL PROCUREMENT OFFICE

REQUEST FOR PROPOSALS # 32110-19402

AMENDMENT # 3

FOR OFFICE SUPPLIES

DATE: March 31, 2020

RFP # 32110-19402 IS AMENDED AS FOLLOWS:

1. **Delete 32110-19402 RFP FA Office Supplies Amendment 2 (Release 3) in its entirety and replace it with 32110-19402 RFP FA Office Supplies Amendment 3 (Release 4), attached to this amendment.** Revisions of the original RFP document are emphasized within the new release.

Any sentence or paragraph containing revised or new text is highlighted.

Modified sections include:

- RFP Section 1.4.5- Modified the instructions for this attachment to account for the additional option to submit customer references by e-mail.
 - RFP Section 2.1 Schedule of Events- The numbering has been corrected. This change was not highlighted.
 - RFP Section 3.1.2.4- This section has been modified to include e-mail submission as an additional option for delivering responses to this RFP. See highlighted revisions.
 - RFP Section 3.2.2 and its subsections- These sections have been modified to include e-mail submission as an additional option for delivering responses and completed customer references to this RFP. See highlighted revisions.
 - RFP Section 3.2.3- This section has been modified to include e-mail submission as an additional option for delivering responses to this RFP. See highlighted revisions.
 - RFP Attachment 6.2, Section B.17- This item has been modified to include e-mail as an additional option for submitting customer references.
 - RFP Attachment 6.4, Reference Questionnaire:
 - a. Removed the following phrase: "...and for enclosing the sealed reference envelopes within the Respondent's Technical Response."
 - b. Modified the instructions for this attachment to account for the additional option to submit customer references by e-mail.
2. **RFP Amendment Effective Date.** The revisions set forth herein shall be effective upon release. All other terms and conditions of this RFP not expressly amended herein shall remain in full force and effect.



STATE OF TENNESSEE
CENTRAL PROCUREMENT OFFICE

REQUEST FOR PROPOSALS # 32110-19402
AMENDMENT # 2
FOR OFFICE SUPPLIES

DATE: March 24, 2020

RFP # 32110-19402 IS AMENDED AS FOLLOWS:

3. This RFP Schedule of Events updates and confirms scheduled RFP dates. Any event, time, or date containing revised or new text is highlighted.

EVENT	TIME (central time zone)	DATE
1. RFP Issued		2/12/2020
2. Disability Accommodation Request Deadline	2:00 p.m.	2/17/2020
3. Pre-response Conference	2:30 p.m.	2/19/2020
4. Notice of Intent to Respond Deadline	2:00 p.m.	2/24/2020
5. Written "Questions & Comments" Deadline	2:00 p.m.	3/2/2020
6. State Response to Written "Questions & Comments"		3/12/2020
7. Response Deadline	4:30 p.m.	4/3/2020
8. State Completion of Technical Response Evaluations		4/17/2020
9. State Opening & Scoring of Cost Proposals	2:00 p.m.	4/22/2020
10. Negotiations (Optional)		4/23/2020 - 4/27/2020
11. State Notice of Intent to Award Released <u>and</u> RFP Files Opened for Public Inspection	2:00 p.m.	4/28/2020
12. End of Open File Period		5/5/2020
13. State sends contract to Contractor for signature		5/28/2020
14. Contractor Signature Deadline	2:00 p.m.	6/4/2020

4. **RFP Amendment Effective Date.** The revisions set forth herein shall be effective upon release. All other terms and conditions of this RFP not expressly amended herein shall remain in full force and effect.



STATE OF TENNESSEE
CENTRAL PROCUREMENT OFFICE

**REQUEST FOR PROPOSALS # 32110-19402
AMENDMENT # 1
FOR OFFICE SUPPLIES**

DATE: March 12, 2020

RFP # 32110-19402 IS AMENDED AS FOLLOWS:

5. State responses to questions and comments in the table below amend and clarify this RFP.

Any restatement of RFP text in the Question/Comment column shall NOT be construed as a change in the actual wording of the RFP document.

Question #	RFP Section	Page #	Question	State Response
1	1.1.	2	Would the State of Tennessee be willing to award the master contract to more than one vendor if it were demonstrated that Tennessee could thereby support local, small, minority and disadvantaged businesses based in Tennessee?	No, the purpose of this RFP is to select one Contractor that can meet the State's need for Office Supplies. It is the intent of the State to contract with a Respondent that can provide the State products and services as specified within this RFP at the best overall value.
2	3.1.1.	7	You mention, "A technical response must not include any pricing or cost information." Please clarify a list of words that are forbidden within the Technical Response? For Example; Can we use the word "price", "discount", "free" or "cost savings" when answering questions in the technical response?	Providing actual cost, price, percentage, etc. numbers is prohibited in the Technical Response. If the Respondent provides this information the State may deem the response nonresponsive.
3	3.1.1.2.	7	You mention, the Technical Proposal cannot exceed 120 pages, please confirm this does not include our attachments?	Attachment pages will not count towards the 120-page limit. Attachments should only be used to provide clarifying information. Attachments should not be used to respond to RFP Attachment 6.2 sections A, B, or C.
4	3.1.1.2.	7	You mention, Exhibits must be 12 pt. font. Please confirm that this does not include Attachments?	Attachments are not required to follow the 12 pt. font format.
5	4.3.1./4.3.2.	11	The state indicates that they "May" determine the response to be a non-responsive counteroffer and reject it. What determines if the request may or may not be found non-responsive counter offer and that the state would reject? Would there be discussion with the vendor to rectify prior to rejection?	Refer to RFP Section 4.3, State Right of Rejection: 4.3.1. Subject to applicable laws and regulations, the State reserves the right to reject, at its sole discretion, any and all responses. 4.3.2. The State may deem as non-responsive and reject any response that does not comply with all terms, conditions, and performance requirements of this RFP.

				Notwithstanding the foregoing, the State reserves the right to waive, at its sole discretion, minor variances from full compliance with this RFP. If the State waives variances in a response, such waiver shall not modify the RFP requirements or excuse the Respondent from full compliance, and the State may hold any resulting Contractor to strict compliance with this RFP.
6	Cost Proposal & Scoring Guide	28	3.2.2.2 Cost Proposal – The instructions state to submit the cost proposal “in the form of one (1) digital document in “PDF” or “XLS””. Since Attachment 6.3 includes both a signature page and an Excel workbook, is it acceptable for the cost proposal submission to have two files: the PDF signature page and the XLS price file?	Yes, it is acceptable for two documents within the Cost Proposal to be submitted. The two documents being the Signature, found on Page 28 of RFP, and the Cost Proposal.
7	Cost Proposal & Scoring Guide	28	Please confirm no original signatures are required and all signatures pages will be included as a scan of the original in our PDF submission?	Original signatures are required on all pages that request a signature. There also needs to be an original signature submitted with the Cost Proposal. This can be a separate attachment from the Cost Proposal.
8	Reference Questionnaire	31	Your request is for our references to be submitted via the Reference Questionnaire. Some of our State partners have policy and procedures that forbid them from submitting written references, but they would be happy to provide a verbal reference. Would contact information for some of our references, without the submission of the Reference Questionnaire, be acceptable?	No, the reference questionnaire will need to be completed for all submitted references.
9	C.1.	40	Can you please clarify the \$44 Million Spend, is this over a 5 year term?	The \$44 Million Spend is over a 5 year term and is an estimate.
10	C.2.a./C.2.b.	41	Please advise if a vendor is allowed to provide price adjustments for extenuating circumstances. If so please provide your specific terms around this request.	Core Item prices are to remain firm for 365 days. Non-Core Items are to remain firm for 90 days.
11	C.7.	42	Pro Forma Contract, C.7 – How does the State intent to enforce C7? What is considered proper compensation?	Based upon Pro Forma contract C.7. if it is discovered through an audit that improper discounts, or no discounts at all, were being provided to the State the invoice may be reduced.
12	Cost Proposal Model	N/A	Please confirm the quoted discount from list need to be applied to every item in category with no exceptions including: exceptions for cost floor or minimal markup.	All items being supplied to the State must have an applicable discount from the Non-Core List (NCL), if it does not fall into the Core List. No exceptions to the NCL discount percentage are allowed. In addition, please note that any item that is not covered within the NCL may not be sold under the contract without prior approval by the Department of General Services.

13	Cost Proposal Model	N/A	Please confirm that you require vendor to provide pricing response as close as possible to the original item quantity pack and unit of measure. For example; if the state historically purchased legal pads by a dozen, that the state would like the product quoted in a pack of a dozen. The state is not looking to purchase in larger pack quantities?	<p>The State expects the bid to be equal to, or as close as the Respondents can be, to the pack sizes requested.</p> <p>Per Attachment 6.3 RFP 32110-19402 Cost Proposal v2, Tab Bid Sheet Instructions: The contents of this Bid Sheet reflect the State's current suppliers UOM and package size. The State requires packaging that is within 150% of the original number of items per UOM, but acknowledges that for some items, the current packaging may not be standard. Different packaging may be proposed in Columns J of "CL" tabs. Even if your UOM and/or package size is the same as the historical item listed, the cells in Columns J MUST be completed for your bid to be calculated.</p>
14	Cost Proposal Model	N/A	Please confirm that you require vendor to provide exact toner manufacture and part number as requested in the RFP. For example; a vendor should not provide a Remanufactured Toner cartridge if you have requested a Hewlett Packard or other national brand original product.	<p>Yes, the State expects that this category will be an exact match to what is being requested. Refer to the Attachment 6.3 RFP 32110-19402 Cost Proposal v2, Tab 1, Bid Sheet Instructions: 3.1:</p> <p>Special Instructions for Ink and Toner CL Tab: Items bid in the following Secondary Classifications must be an EXACT MATCH with the Historically Purchased Item: OEM Laser Toner Cartridge; OEM Inkjet Cartridge; OEM Drums / Developer Belts; Maintenance and Transfer Kits; Cleaning Units and Waste Toner; OEM Fax Cartridges. Submitting alternate model numbers for these items is acceptable, as long as the item is an update of an obsolete version.</p>
15	N/A	N/A	Attachment 6.3 asks for a Catalog to be submitted as a part of the response, but there aren't instructions for how this should be submitted with the proposal. Can you please clarify the Catalog submission format?	The Catalog can be submitted as a separate attachment to the bid or a website that shows all product offerings. The Catalog should show all items that the State will be able to purchase.
16	N/A	N/A	Do you have a separate agreement for your 8.5x11 cut sheet paper?	Yes, the State currently has a separate Statewide Contract for this item.
17	N/A	N/A	Do you have a separate agreement for your facilities/cleaning supplies?	Yes, the State currently has a separate Statewide Contract for these items.
18	N/A	N/A	Can you provide complete usage for 2019 under this contract? Item Number, Mfg #, Description, Unit of Measure and total qty purchased?	This information has been made available. The information is State Agency history only, this does not include local government spend. Please reach out to the contract administrator if unable to find this document.
19	3.1.1.2.	7	Do attachment pages need to be numbered?	It would be a preference that Attachments provide page numbers, but not a requirement. The Technical Response is required to be numbered.
20	N/A	N/A	Given the inclusion of toner in this solicitation, will the State of Tennessee include all participating vendors in your current HP Big Deal or other special toner arrangements prior to the RFP submittal date, to ensure an equal opportunity for all bidders?	The State has notified HP that Respondents to this RFP that reach out to them can be included in the "HP Big Deal". To have access to the HP OEM Supplies Big Deal, respondents must be an HP Qualified Supplies reseller with a valid Location ID. Once a Respondent is selected for an award, HP will remove other suppliers from this agreement. The State is unaware of any

				other special toner arrangements at this time. If there are questions on how to partner with HP, please contact HP's representative: Brett Schweiger, Brett.Schweiger@hp.com, (501) 200-0025
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6. **Delete 32110-19402 RFP FA Office Supplies, in its entirety, and replace it with 32110-19402 RFP FA Office Supplies Amendment 1 (Release 2), attached to this amendment.** Revisions of the original RFP document are emphasized within the new release. Any sentence or paragraph containing revised or new text is highlighted.
7. **Delete Attachment 6.3 RFP 32110-19402 Cost Proposal, in its entirety, and replace it with Attachment 6.3 RFP 32110-19402 Cost Proposal v2.** Revisions of the original attachment are outlined both above by Section 1 of this Amendment #1, and below.
 - a. Bid Sheet Instruction Tab has had correct Event ID number placed on Line 2.
 - b. Bid Sheet Instruction Tab, "CL" Tabs instruction has modified language on #5.
 - i. The words "historical vendors" changed to "current suppliers".
 - ii. "Even if your UOM and/or package size is the same is the historical item listed...", changed second "is" to "as".
 - iii. "Please note the State reserves the right to reject and renegotiate package sizes with the awarded vendor using the unit pricing proposed." This has been removed.



STATE OF TENNESSEE
Department of General Services

REQUEST FOR PROPOSALS
FOR
Office Supplies
RFP # 32110-19402

RFP CONTENTS

SECTIONS:

- 1. INTRODUCTION**
- 2. RFP SCHEDULE OF EVENTS**
- 3. RESPONSE REQUIREMENTS**
- 4. GENERAL CONTRACTING INFORMATION & REQUIREMENTS**
- 5. EVALUATION & CONTRACT AWARD**

ATTACHMENTS:

- 6.1. Response Statement of Certifications & Assurances**
- 6.2. Technical Response & Evaluation Guide**
- 6.3. Cost Proposal & Scoring Guide**
- 6.4. Reference Questionnaire**
- 6.5. Score Summary Matrix**
- 6.6. *Pro Forma* Contract**

1. INTRODUCTION

The State of Tennessee, Department of General Services, hereinafter referred to as the "State", issues this Request for Proposals (RFP) to define minimum contract requirements; solicit responses; detail response requirements; and, outline the State's process for evaluating responses and selecting a Contractor to provide the needed goods or services.

Through this RFP, the State seeks to procure necessary goods or services at the most favorable, competitive prices and to give ALL qualified respondents, including those that are owned by minorities, women, service-disabled veterans, persons with disabilities and small business enterprises, an opportunity to do business with the state as Contractors, subcontractors or suppliers.

1.1. Statement of Procurement Purpose

The purpose of this RFP is to select one Contractor that can meet the State's need for Office Supplies. It is the intent of the State to contract with a Respondent that can provide the State products and services as specified within this RFP at the best overall value. This RFP encompasses all product categories that are needed for State's use.

Authorized Users and qualified non-profit agencies may utilize the Statewide Contract (SWC) as negotiated by the State. While Authorized Users participation in this Statewide Contract is not mandatory, it is the State's goal to continue encouraging Authorized Users to use the price agreement(s) resulting from this RFP.

The State's expectation is that this will be an initial one (1) year contract with the option to exercise four (4) additional one-year terms following the initial one (1) year contract.

1.2. Scope of Service, Contract Period, & Required Terms and Conditions

The RFP Attachment 6.6., *Pro Forma* Contract details the State's requirements:

- Scope of Services and Deliverables (Section A);
- Contract Period (Section B);
- Payment Terms (Section C);
- Standard Terms and Conditions (Section D); and,
- Special Terms and Conditions (Section E).

The *pro forma* contract substantially represents the contract document that the successful Respondent must sign.

1.3. Nondiscrimination

No person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of a Contract pursuant to this RFP or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Contractor pursuant to this RFP shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

1.4. RFP Communications

- 1.4.1. The State has assigned the following RFP identification number that must be referenced in all communications regarding this RFP:

RFP # 32110-19402

1.4.2. Unauthorized contact about this RFP with employees or officials of the State of Tennessee except as detailed below may result in disqualification from consideration under this procurement process.

- 1.4.2.1. Prospective Respondents must direct communications concerning this RFP to the following person designated as the Solicitation Coordinator:

James Vallone
 Department of General Services – Category Specialist
 312 Rosa L Parks Ave – 3rd floor
 Nashville, TN 37243
 615-253-8528
 James.Vallone@tn.gov

- 1.4.2.2. Notwithstanding the foregoing, Prospective Respondents may alternatively contact:

- a. staff of the Governor's Office of Diversity Business Enterprise for assistance available to minority-owned, woman-owned, service-disabled veteran-owned, businesses owned by persons with disabilities, and small businesses as well as general, public information relating to this RFP (visit <https://www.tn.gov/general-services/procurement/central-procurement-office--cpo-/governor-s-office-of-diversity-business-enterprise--godbe--/godbe-general-contacts.html> for contact information); and
- b. the following individual designated by the State to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and associated federal regulations:

Helen Crowley
 Central Procurement Office, Compliance
 Tennessee Tower, 3rd Floor
 312 Rosa L. Parks Ave., Nashville, TN 37243
 p. 615-741-3836
 Helen.Crowley@tn.gov

- 1.4.3. Only the State's official, written responses and communications with Respondents are binding with regard to this RFP. Oral communications between a State official and one or more Respondents are unofficial and non-binding.
- 1.4.4. Potential Respondents must ensure that the State receives all written questions and comments, including questions and requests for clarification, no later than the Written Questions & Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.4.5. Respondents must assume the risk of the method of dispatching any communication or response to the State. The State assumes no responsibility for delays or delivery failures resulting from the Respondent's method of dispatch. **It is encouraged for suppliers to submit bids digitally.**
- 1.4.6. The State will convey all official responses and communications related to this RFP to the prospective Respondents from whom the State has received a Notice of Intent to Respond (refer to RFP Section 1.8).
- 1.4.7. The State reserves the right to determine, at its sole discretion, the method of conveying official, written responses and communications related to this RFP. Such written communications may be transmitted by mail, hand-delivery, facsimile, electronic mail, Internet posting, or any other means deemed reasonable by the State. For internet posting, please refer to the following

website: <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/supplier-information-/request-for-proposals--rfp--opportunities1.html>.

- 1.4.8. The State reserves the right to determine, at its sole discretion, the appropriateness and adequacy of responses to written comments, questions, and requests related to this RFP. The State's official, written responses will constitute an amendment of this RFP.
- 1.4.9. Any data or factual information provided by the State (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. The State will make reasonable efforts to ensure the accuracy of such data or information, however it is the Respondent's obligation to independently verify any data or information provided by the State. The State expressly disclaims the accuracy or adequacy of any information or data that it provides to prospective Respondents.

All statistical or fiscal data or information provided by the State in conjunction with this RFP, whether by way of exhibits, amendments or modifications to this RFP, are provided by the State "as is." The State expressly disclaims any warranty as to the accuracy or the adequacy of any statistical or fiscal data that it provides to Respondents. A Respondent's reliance upon the accuracy or adequacy of such data shall not be the basis of relief from contract performance or recovery of actual, consequential or punitive damages from the State.

1.5. **Assistance to Respondents with a Handicap or Disability**

Prospective Respondents with a handicap or disability may receive accommodation relating to the communication of this RFP and participating in the RFP process. Prospective Respondents may contact the Solicitation Coordinator to request such reasonable accommodation no later than the Disability Accommodation Request Deadline detailed in the RFP Section 2, Schedule of Events.

1.6. **Respondent Required Review & Waiver of Objections**

- 1.6.1. Each prospective Respondent must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.6., *Pro Forma* Contract, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called "questions and comments").
- 1.6.2. Any prospective Respondent having questions and comments concerning this RFP must provide them in writing to the State no later than the Written Questions & Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.6.3. Protests based on any objection to the RFP shall be considered waived and invalid if the objection has not been brought to the attention of the State, in writing, by the Written Questions & Comments Deadline.

1.7. **Pre-Response Conference**

A Pre-response Conference will be held at the time and date detailed in the RFP Section 2, Schedule of Events. Pre-response Conference attendance is not mandatory, and prospective Respondents may be limited to a maximum number of attendees depending upon overall attendance and space limitations.

The conference will be held at:

Date/Time: February 19, 2020. 2:30pm Central Time.
 Location: Central Procurement Office Tennessee Tower
 3rd Floor 312 Rosa L Parks Ave
 Nashville, TN 37243
 Room: Conference Room N

If unable to attend in person, the Bridgeline to call-in: 615-253-0068

The purpose of the conference is to discuss the RFP scope of goods or services. The State will entertain questions, however prospective Respondents must understand that the State's oral response to any question at the Pre-response Conference shall be unofficial and non-binding. Prospective Respondents must submit all questions, comments, or other concerns regarding the RFP in writing prior to the Written Questions & Comments Deadline date detailed in the RFP Section 2, Schedule of Events. The State will send the official response to these questions and comments to prospective Respondents from whom the State has received a Notice of Intent to respond as indicated in RFP Section 1.8 and on the date detailed in the RFP Section 2, Schedule of Events.

1.8. **Notice of Intent to Respond**

Before the Notice of Intent to Respond Deadline detailed in the RFP Section 2, Schedule of Events, prospective Respondents should submit to the Solicitation Coordinator a Notice of Intent to Respond (in the form of a simple e-mail or other written communication). Such notice should include the following information:

- the business or individual's name (as appropriate);
- a contact person's name and title; and
- the contact person's mailing address, telephone number, facsimile number, and e-mail address.

A Notice of Intent to Respond creates no obligation and is not a prerequisite for submitting a response, however, it is necessary to ensure receipt of any RFP amendments or other notices and communications relating to this RFP.

1.9. **Response Deadline**

A Respondent must ensure that the State receives a response no later than the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events. The State will not accept late responses, and a Respondent's failure to submit a response before the deadline will result in disqualification of the response. It is the responsibility of the Respondent to ascertain any additional security requirements with respect to packaging and delivery to the State of Tennessee. Respondents should be mindful of any potential delays due to security screening procedures, weather, or other filing delays whether foreseeable or unforeseeable.

2. RFP SCHEDULE OF EVENTS

2.1. The following RFP Schedule of Events represents the State's best estimate for this RFP.

EVENT	TIME (central time zone)	DATE
1. RFP Issued		2/12/2020
2. Disability Accommodation Request Deadline	2:00 p.m.	2/17/2020
3. Pre-response Conference	2:30 p.m.	2/19/2020
4. Notice of Intent to Respond Deadline	2:00 p.m.	2/24/2020
5. Written "Questions & Comments" Deadline	2:00 p.m.	3/2/2020
6. State Response to Written "Questions & Comments"		3/12/2020
7. Response Deadline	4:30 p.m.	4/3/2020
8. State Completion of Technical Response Evaluations		4/17/2020
9. State Opening & Scoring of Cost Proposals	2:00 p.m.	4/22/2020
10. Negotiations (Optional)		4/23/2020 - 4/27/2020
15. State Notice of Intent to Award Released <u>and</u> RFP Files Opened for Public Inspection	2:00 p.m.	4/28/2020
16. End of Open File Period		5/5/2020
17. State sends contract to Contractor for signature		5/28/2020
18. Contractor Signature Deadline	2:00 p.m.	6/4/2020

2.2. **The State reserves the right, at its sole discretion, to adjust the RFP Schedule of Events as it deems necessary.** Any adjustment of the Schedule of Events shall constitute an RFP amendment, and the State will communicate such to prospective Respondents from whom the State has received a Notice of Intent to Respond (refer to Request for Proposal section 1.8).

3. RESPONSE REQUIREMENTS

3.1. Response Form

A response to this RFP must consist of two parts, a Technical Response and a Cost Proposal.

- 3.1.1. **Technical Response.** RFP Attachment 6.2., Technical Response & Evaluation Guide provides the specific requirements for submitting a response. This guide includes mandatory requirement items, general qualifications and experience items, and technical qualifications, experience, and approach items all of which must be addressed with a written response and, in some instances, additional documentation.

NOTICE: A technical response must not include any pricing or cost information. If any pricing or cost information amounts of any type (even pricing relating to other projects) is included in any part of the technical response, the state may deem the response to be non-responsive and reject it.

- 3.1.1.1. A Respondent must use the RFP Attachment 6.2., Technical Response & Evaluation Guide to organize, reference, and draft the Technical Response by duplicating the attachment, adding appropriate page numbers as required, and using the guide as a table of contents covering the Technical Response.
- 3.1.1.2. A Technical Response should be economically prepared, with emphasis on completeness and clarity, and should NOT exceed 120 pages in length (maps, graphs, charts, as noted and included as an appendix will not count against this page limit). A response, as well as any reference material presented, must be written in English and must be written on standard 8 ½" x 11" pages (although oversize exhibits are permissible) and all text must be at least a 12 point font. All response pages must be numbered.
- 3.1.1.3. All information and documentation included in a Technical Response should correspond to or address a specific requirement detailed in the RFP Attachment 6.2., Technical Response & Evaluation Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed extraneous and will not contribute to evaluations.
- 3.1.1.4. The State may determine a response to be non-responsive and reject it if:
- a. the Respondent fails to organize and properly reference the Technical Response as required by this RFP and the RFP Attachment 6.2., Technical Response & Evaluation Guide; or
 - b. the Technical Response document does not appropriately respond to, address, or meet all of the requirements and response items detailed in the RFP Attachment 6.2., Technical Response & Evaluation Guide.
- 3.1.2. **Cost Proposal.** A Cost Proposal must be recorded on an exact duplicate of the RFP Attachment 6.3., Cost Proposal & Scoring Guide.

NOTICE: If a Respondent fails to submit a cost proposal exactly as required, the State may deem the response to be non-responsive and reject it.

- 3.1.2.1. A Respondent must only record the proposed cost exactly as required by the RFP Attachment 6.3., Cost Proposal & Scoring Guide and must NOT record any other rates, amounts, or information.
- 3.1.2.2. The proposed cost shall incorporate ALL costs for services under the contract for the total contract period, including any renewals or extensions.
- 3.1.2.3. A Respondent must sign and date the Cost Proposal.
- 3.1.2.4. A Respondent must submit the Cost Proposal to the State on a separate e-mail or CD or USB flash drive from the Technical Response (as detailed in RFP Sections 3.2.3., *et. Seq*).

3.2. Response Delivery

- 3.2.1. A Respondent must ensure that both the Technical Response and Cost Proposal files meet all form and content requirements, including all required signatures, as detailed within this RFP.
- 3.2.2. A Respondent must submit their response as specified in one of the two formats below.

3.2.2.1. Digital Media Submission

3.2.2.1.1. Technical Response

The Technical Response document should be in the form of one (1) digital document in “PDF” format properly recorded on its own otherwise blank, standard CD-R recordable disc or USB flash drive and should be clearly identified as the:

“RFP # 32110-19402 TECHNICAL RESPONSE ORIGINAL”

and six (6) digital copies of the Technical Response each in the form of one (1) digital document in “PDF” format properly recorded on its own otherwise blank, standard CD-R recordable disc or USB flash drive clearly labeled:

“RFP # 32110-19402 TECHNICAL RESPONSE COPY”

The customer references should be delivered by each reference in accordance with RFP Attachment 6.2, Section B.17.

3.2.2.1.2. Cost Proposal:

The Cost Proposal should be in the form of one (1) digital document in “PDF” or “XLS” format properly recorded on a separate, otherwise blank, standard CD-R recordable disc or USB flash drive clearly labeled:

“RFP #32110-19402 COST PROPOSAL”

An electronic or facsimile signature, as applicable, on the Cost Proposal is acceptable.

3.2.2.2. E-mail Submission

3.2.2.2.1. Technical Response

The Technical Response document should be in the form of one (1) digital document in “PDF” format or other easily accessible digital format attached to an

e-mail to the Solicitation Coordinator. Both the subject and file name should both be clearly identified as follows:

“RFP # 32110-19402 TECHNICAL RESPONSE”

The customer references should be delivered by each reference in accordance with RFP attachment 6.2, Section B.17.

3.2.2.2.2. Cost Proposal:

The Cost Proposal should be in the form of one (1) digital document in “PDF” or “XLS” format or other easily accessible digital format attached to an e-mail to the Solicitation Coordinator. Both the subject and file name should both be clearly identified as follows:

“RFP #32110-19402 COST PROPOSAL”

An electronic or facsimile signature, as applicable, on the Cost Proposal is acceptable.

- 3.2.3. For e-mail submissions, the Technical Response and Cost Proposal documents must be dispatched to the Solicitation Coordinator in separate e-mail messages. For digital media submissions, a Respondent must separate, seal, package, and label the documents and copies for delivery as follows:

- 3.2.3.1. The Technical Response and copies must be placed in a sealed package that is clearly labeled:

“DO NOT OPEN... RFP # 32110-19402 TECHNICAL RESPONSE FROM [RESPONDENT LEGAL ENTITY NAME]”

- 3.2.3.2. The Cost Proposal must be placed in a separate, sealed package that is clearly labeled:

“DO NOT OPEN... RFP # 32110-19402 COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”

- 3.2.3.3. The separately, sealed Technical Response and Cost Proposal components may be enclosed in a larger package for mailing or delivery, provided that the outermost package is clearly labeled:

“RFP # 32110-19402 SEALED TECHNICAL RESPONSE & SEALED COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”

- 3.2.3.4. Any Respondent wishing to submit a Response in a format other than digital may do so by contacting the Solicitation Coordinator.

- 3.2.4. A Respondent must ensure that the State receives a response no later than the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events at the following address:

Central Procurement Office
Department of General Services
Tennessee Tower 3rd Floor
Attn: James Vallone, RFP # 32110-19402
312 Rosa L. Parks Ave, Nashville, TN 37243

3.3. Response & Respondent Prohibitions

- 3.3.1. A response must not include alternate contract terms and conditions. If a response contains such terms and conditions, the State, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.
- 3.3.2. A Respondent shall not include in its response, or after contract award, any end-user license agreement, manufacturer's terms and conditions, service guide, clickwrap agreement, shrinkwrap agreement, online terms and conditions, or other terms and conditions that supplement, modify, or contradict the terms set forth in the Pro Forma Contract.
- 3.3.3. A response must not restrict the rights of the State or otherwise qualify either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal. If a response restricts the rights of the State or otherwise qualifies either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal, the State, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.
- 3.3.4. A response must not propose alternative goods or services (*i.e.*, offer services different from those requested and required by this RFP) unless expressly requested in this RFP. The State may consider a response of alternative goods or services to be non-responsive and reject it.
- 3.3.5. A Cost Proposal must be prepared and arrived at independently and must not involve any collusion between Respondents. The State will reject any Cost Proposal that involves collusion, consultation, communication, or agreement between Respondents. Regardless of the time of detection, the State will consider any such actions to be grounds for response rejection or contract termination.
- 3.3.6. A Respondent must not provide, for consideration in this RFP process or subsequent contract negotiations, any information that the Respondent knew or should have known was materially incorrect. If the State determines that a Respondent has provided such incorrect information, the State will deem the Response non-responsive and reject it.
- 3.3.7. A Respondent must not submit more than one Technical Response and one Cost Proposal in response to this RFP, except as expressly requested by the State in this RFP. If a Respondent submits more than one Technical Response or more than one Cost Proposal, the State will deem all of the responses non-responsive and reject them.
- 3.3.8. A Respondent must not submit a response as a prime Contractor while also permitting one or more other Respondents to offer the Respondent as a subcontractor in their own responses. Such may result in the disqualification of all Respondents knowingly involved. This restriction does not, however, prohibit different Respondents from offering the same subcontractor as a part of their responses (provided that the subcontractor does not also submit a response as a prime Contractor).
- 3.3.9. The State shall not consider a response from an individual who is, or within the past six (6) months has been, a State employee. For purposes of this RFP:
 - 3.3.9.1 An individual shall be deemed a State employee until such time as all compensation for salary, termination pay, and annual leave has been paid;
 - 3.3.9.2 A contract with or a response from a company, corporation, or any other contracting entity in which a controlling interest is held by any State employee shall be considered to be a contract with or proposal from the employee; and
 - 3.3.9.3 A contract with or a response from a company, corporation, or any other contracting entity that employs an individual who is, or within the past six (6) months has been, a

State employee shall not be considered a contract with or a proposal from the employee and shall not constitute a prohibited conflict of interest.

3.4. Response Errors & Revisions

A Respondent is responsible for any and all response errors or omissions. A Respondent will not be allowed to alter or revise response documents after the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events unless such is formally requested, in writing, by the State.

3.5. Response Withdrawal

A Respondent may withdraw a submitted response at any time before the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events by submitting a written request signed by an authorized Respondent representative. After withdrawing a response, a Respondent may submit another response at any time before the Response Deadline. After the Response Deadline, a Respondent may only withdraw all or a portion of a response where the enforcement of the response would impose an unconscionable hardship on the Respondent.

3.6. Additional Services

If a response offers goods or services in addition to those required by and described in this RFP, the State, at its sole discretion, may add such services to the contract awarded as a result of this RFP. Notwithstanding the foregoing, a Respondent must not propose any additional cost amounts or rates for additional goods or services. Regardless of any additional services offered in a response, the Respondent's Cost Proposal must only record the proposed cost as required in this RFP and must not record any other rates, amounts, or information.

NOTICE: If a Respondent fails to submit a Cost Proposal exactly as required, the State may deem the response non-responsive and reject it.

3.7. Response Preparation Costs

The State will not pay any costs associated with the preparation, submittal, or presentation of any response.

4. GENERAL CONTRACTING INFORMATION & REQUIREMENTS

4.1. RFP Amendment

The State at its sole discretion may amend this RFP, in writing, at any time prior to contract award. However, prior to any such amendment, the State will consider whether it would negatively impact the ability of potential Respondents to meet the response deadline and revise the RFP Schedule of Events if deemed appropriate. If an RFP amendment is issued, the State will convey it to potential Respondents who submitted a Notice of Intent to Respond (refer to RFP Section 1.8). A response must address the final RFP (including its attachments) as amended.

4.2. RFP Cancellation

The State reserves the right, at its sole discretion, to cancel the RFP or to cancel and reissue this RFP in accordance with applicable laws and regulations.

4.3. State Right of Rejection

4.3.1. Subject to applicable laws and regulations, the State reserves the right to reject, at its sole discretion, any and all responses.

4.3.2. The State may deem as non-responsive and reject any response that does not comply with all terms, conditions, and performance requirements of this RFP. Notwithstanding the foregoing, the State reserves the right to waive, at its sole discretion, minor variances from full compliance with this RFP. If the State waives variances in a response, such waiver shall not modify the RFP requirements or excuse the Respondent from full compliance, and the State may hold any resulting Contractor to strict compliance with this RFP.

4.4. Assignment & Subcontracting

4.4.1. The Contractor may not subcontract, transfer, or assign any portion of the Contract awarded as a result of this RFP without prior approval of the State. The State reserves the right to refuse approval, at its sole discretion, of any subcontract, transfer, or assignment.

4.4.2. If a Respondent intends to use subcontractors, the response to this RFP must specifically identify the scope and portions of the work each subcontractor will perform (refer to RFP Attachment 6.2., Section B, General Qualifications & Experience Item B.14.).

4.4.3. Subcontractors identified within a response to this RFP will be deemed as approved by the State unless the State expressly disapproves one or more of the proposed subcontractors prior to signing the Contract.

4.4.4. After contract award, a Contractor may only substitute an approved subcontractor at the discretion of the State and with the State's prior, written approval.

4.4.5. Notwithstanding any State approval relating to subcontracts, the Respondent who is awarded a contract pursuant to this RFP will be the prime Contractor and will be responsible for all work under the Contract.

4.5. Right to Refuse Personnel or Subcontractors

The State reserves the right to refuse, at its sole discretion and notwithstanding any prior approval, any personnel of the prime Contractor or a subcontractor providing goods or services in the performance of a contract resulting from this RFP. The State will document in writing the reason(s) for any rejection of personnel.

4.6. Insurance

The State will require the awarded Contractor to provide a Certificate of Insurance issued by an insurance company licensed or authorized to provide insurance in the State of Tennessee. Each Certificate of Insurance shall indicate current insurance coverages meeting minimum requirements as may be specified by this RFP. A failure to provide a current, Certificate of Insurance will be considered a material breach and grounds for contract termination.

4.7. Professional Licensure and Department of Revenue Registration

- 4.7.1. All persons, agencies, firms, or other entities that provide legal or financial opinions, which a Respondent provides for consideration and evaluation by the State as a part of a response to this RFP, shall be properly licensed to render such opinions.
- 4.7.2. Before the Contract resulting from this RFP is signed, the apparent successful Respondent (and Respondent employees and subcontractors, as applicable) must hold all necessary or appropriate business or professional licenses to provide the goods or services as required by the contract. The State may require any Respondent to submit evidence of proper licensure.
- 4.7.3. Before the Contract resulting from this RFP is signed, the apparent successful Respondent must be registered with the Tennessee Department of Revenue for the collection of Tennessee sales and use tax. The State shall not award a contract unless the Respondent provides proof of such registration or provides documentation from the Department of Revenue that the Contractor is exempt from this registration requirement. The foregoing is a mandatory requirement of an award of a contract pursuant to this solicitation. To register, please visit the Department of Revenue's Tennessee Taxpayer Access Point (TNTAP) website for Online Registration and the Supplier Contract Questionnaire. These resources are available at the following:
<https://tntap.tn.gov/eservices/#1>

4.8. Disclosure of Response Contents

- 4.8.1. All materials submitted to the State in response to this RFP shall become the property of the State of Tennessee. Selection or rejection of a response does not affect this right. By submitting a response, a Respondent acknowledges and accepts that the full response contents and associated documents will become open to public inspection in accordance with the laws of the State of Tennessee.
- 4.8.2. The State will hold all response information, including both technical and cost information, in confidence during the evaluation process.
- 4.8.3. Upon completion of response evaluations, indicated by public release of a Notice of Intent to Award, the responses and associated materials will be open for review by the public in accordance with Tenn. Code Ann. § 10-7-504(a)(7).

4.9. Contract Approval and Contract Payments

- 4.9.1. After contract award, the Contractor who is awarded the contract must submit appropriate documentation with the Department of Finance and Administration, Division of Accounts.
- 4.9.2. This RFP and its Contractor selection processes do not obligate the State and do not create rights, interests, or claims of entitlement in either the Respondent with the apparent best-evaluated response or any other Respondent. State obligations pursuant to a contract award shall commence only after the Contract is signed by the State agency head and the Contractor and after the Contract is approved by all other state officials as required by applicable laws and regulations.

4.9.3. No payment will be obligated or made until the relevant Contract is approved as required by applicable statutes and rules of the State of Tennessee. The Respondent awarded the Contract resulting from this RFP shall accept the State's Purchasing Card ("P-Card") as a form of payment at no cost to the State and provide level III data reporting information.

4.9.3.1. The State shall not be liable for payment of any type associated with the Contract resulting from this RFP (or any amendment thereof) or responsible for any goods delivered or services rendered by the Contractor, even goods delivered or services rendered in good faith and even if the Contractor is orally directed to proceed with the delivery of goods or the rendering of services, if it occurs before the Contract Effective Date or after the Contract Term.

4.9.3.2. All payments relating to this procurement will be made in accordance with the Payment Terms and Conditions of the Contract resulting from this RFP (refer to RFP Attachment 6.6., *Pro Forma* Contract, Section C).

4.9.3.3. If any provision of the Contract provides direct funding or reimbursement for the competitive purchase of goods or services as a component of contract performance or otherwise provides for the reimbursement of specified, actual costs, the State will employ all reasonable means and will require all such documentation that it deems necessary to ensure that such purchases were competitive and costs were reasonable, necessary, and actual. The Contractor shall provide reasonable assistance and access related to such review. Further, the State shall not remit, as funding or reimbursement pursuant to such provisions, any amounts that it determines do not represent reasonable, necessary, and actual costs.

4.10. **Contractor Performance**

The Contractor who is awarded a contract will be responsible for the delivery of all acceptable goods or the satisfactory completion of all services set out in this RFP (including attachments) as may be amended. All goods or services are subject to inspection and evaluation by the State. The State will employ all reasonable means to ensure that goods delivered or services rendered are in compliance with the Contract, and the Contractor must cooperate with such efforts.

4.11. **Contract Amendment**

After Contract award, the State may request the Contractor to deliver additional goods or perform additional services within the general scope of the Contract and this RFP, but beyond the specified Scope, and for which the Contractor may be compensated. In such instances, the State will provide the Contractor a written description of the additional goods or services. The Contractor must respond to the State with a time schedule for delivering the additional goods or accomplishing the additional services based on the compensable units included in the Contractor's response to this RFP. If the State and the Contractor reach an agreement regarding the goods or services and associated compensation, such agreement must be effected by means of a contract amendment. Further, any such amendment requiring additional goods or services must be signed by both the State agency head and the Contractor and must be approved by other state officials as required by applicable statutes, rules, policies and procedures of the State of Tennessee. The Contractor must not provide additional goods or render additional services until the State has issued a written contract amendment with all required approvals.

4.12. **Severability**

If any provision of this RFP is declared by a court to be illegal or in conflict with any law, said decision will not affect the validity of the remaining RFP terms and provisions, and the rights and obligations of the State and Respondents will be construed and enforced as if the RFP did not contain the particular provision held to be invalid.

4.13. **Next Ranked Respondent**

The State reserves the right to initiate negotiations with the next ranked Respondent should the State cease doing business with any Respondent selected via this RFP process.

5. EVALUATION & CONTRACT AWARD

5.1. Evaluation Categories & Maximum Points

The State will consider qualifications, experience, technical approach, and cost in the evaluation of responses and award points in each of the categories detailed below (up to the maximum evaluation points indicated) to each response deemed by the State to be responsive.

EVALUATION CATEGORY	MAXIMUM POINTS POSSIBLE
General Qualifications & Experience (refer to RFP Attachment 6.2., Section B)	10
Technical Qualifications, Experience & Approach (refer to RFP Attachment 6.2., Section C)	30
Cost Proposal (refer to RFP Attachment 6.3.)	60

5.2. Evaluation Process

The evaluation process is designed to award the contract resulting from this RFP not necessarily to the Respondent offering the lowest cost, but rather to the Respondent deemed by the State to be responsive and responsible who offers the best combination of attributes based upon the evaluation criteria. ("Responsive Respondent" is defined as a Respondent that has submitted a response that conforms in all material respects to the RFP. "Responsible Respondent" is defined as a Respondent that has the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.)

5.2.1. **Technical Response Evaluation.** The Solicitation Coordinator and the Proposal Evaluation Team (consisting of three (3) or more State employees) will use the RFP Attachment 6.2., Technical Response & Evaluation Guide to manage the Technical Response Evaluation and maintain evaluation records.

- 5.2.1.1. The State reserves the right, at its sole discretion, to request Respondent clarification of a Technical Response or to conduct clarification discussions with any or all Respondents. Any such clarification or discussion will be limited to specific sections of the response identified by the State. The subject Respondent must put any resulting clarification in writing as may be required and in accordance with any deadline imposed by the State.
- 5.2.1.2. The Solicitation Coordinator will review each Technical Response to determine compliance with RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A— Mandatory Requirements. If the Solicitation Coordinator determines that a response failed to meet one or more of the mandatory requirements, the Proposal Evaluation Team will review the response and document the team's determination of whether:
 - a. the response adequately meets RFP requirements for further evaluation;
 - b. the State will request clarifications or corrections for consideration prior to further evaluation; or,
 - c. the State will determine the response to be non-responsive to the RFP and reject it.
- 5.2.1.3. Proposal Evaluation Team members will independently evaluate each Technical Response (that is responsive to the RFP) against the evaluation criteria in this RFP,

and will score each in accordance with the RFP Attachment 6.2., Technical Response & Evaluation Guide.

- 5.2.1.4. For each response evaluated, the Solicitation Coordinator will calculate the average of the Proposal Evaluation Team member scores for RFP Attachment 6.2., Technical Response & Evaluation Guide, and record each average as the response score for the respective Technical Response section.
- 5.2.1.5. Before Cost Proposals are opened, the Proposal Evaluation Team will review the Technical Response Evaluation record and any other available information pertinent to whether or not each Respondent is responsive and responsible. If the Proposal Evaluation Team identifies any Respondent that does not meet the responsive and responsible thresholds such that the team would not recommend the Respondent for Cost Proposal Evaluation and potential contract award, the team members will fully document the determination.
- 5.2.2. **Cost Proposal Evaluation.** The Solicitation Coordinator will open for evaluation the Cost Proposal of each Respondent deemed by the State to be responsive and responsible and calculate and record each Cost Proposal score in accordance with the RFP Attachment 6.3., Cost Proposal & Scoring Guide.
- 5.2.3 **Clarifications and Negotiations:** The State reserves the right to award a contract on the basis of initial responses received, therefore, each response shall contain the Respondent's best terms and conditions from a technical and cost standpoint. The State reserves the right to conduct clarifications or negotiations with one or more Respondents. All communications, clarifications, and negotiations shall be conducted in a manner that supports fairness in response improvement.
 - 5.2.3.1 **Clarifications:** The State may identify areas of a response that may require further clarification or areas in which it is apparent that there may have been miscommunications or misunderstandings as to the State's specifications or requirements. The State may seek to clarify those issues identified during one or multiple clarification rounds. Each clarification sought by the State may be unique to an individual Respondent, provided that the process is conducted in a manner that supports fairness in response improvement.
 - 5.2.3.2. **Negotiations:** The State may elect to negotiate with one or more Respondents by requesting revised responses, negotiating costs, or finalizing contract terms and conditions. The State reserves the right to conduct multiple negotiation rounds or no negotiations at all.
 - 5.2.3.3. **Cost Negotiations:** All Respondents, selected for negotiation by the State, will be given equivalent information with respect to cost negotiations. All cost negotiations will be documented for the procurement file. Additionally, the State may conduct target pricing and other goods or services level negotiations. Target pricing may be based on considerations such as current pricing, market considerations, benchmarks, budget availability, or other methods that do not reveal individual Respondent pricing. During target price negotiations, Respondents are not obligated to reduce their pricing to target prices, but no Respondent is allowed to increase prices.
 - 5.2.3.4. If the State determines that it is unable to successfully negotiate terms and conditions of a contract with the apparent best evaluated Respondent, the State reserves the right to bypass the apparent best evaluated Respondent and enter into terms and conditions contract negotiations with the next apparent best evaluated Respondent.
- 5.2.4. **Total Response Score.** The Solicitation Coordinator will calculate the sum of the Technical Response section scores and the Cost Proposal score and record the resulting number as the total score for the subject Response (refer to RFP Attachment 6.5., Score Summary Matrix).

5.3. Contract Award Process

- 5.3.1 The Solicitation Coordinator will submit the Proposal Evaluation Team determinations and scores to the head of the procuring agency for consideration along with any other relevant information that might be available and pertinent to contract award.
- 5.3.2 The procuring agency head will determine the apparent best-evaluated Response. To effect a contract award to a Respondent other than the one receiving the highest evaluation process score, the head of the procuring agency must provide written justification and obtain the written approval of the Chief Procurement Officer and the Comptroller of the Treasury.
- 5.3.3 The State will issue a Notice of Intent to Award identifying the apparent best-evaluated response and make the RFP files available for public inspection at the time and date specified in the RFP Section 2, Schedule of Events.

NOTICE: The Notice of Intent to Award shall not create rights, interests, or claims of entitlement in either the apparent best-evaluated Respondent or any other Respondent.

- 5.3.4 The Respondent identified as offering the apparent best-evaluated response must sign a contract drawn by the State pursuant to this RFP. The Contract shall be substantially the same as the RFP Attachment 6.6., *Pro Forma* Contract. The Respondent must sign the contract by the Contractor Signature Deadline detailed in the RFP Section 2, Schedule of Events. If the Respondent fails to provide the signed Contract by this deadline, the State may determine that the Respondent is non-responsive to this RFP and reject the response.
- 5.3.5 Notwithstanding the foregoing, the State may, at its sole discretion, entertain limited terms and conditions or pricing negotiations prior to Contract signing and, as a result, revise the Pro Forma Contract terms and conditions or performance requirements in the State's best interests, PROVIDED THAT such revision of terms and conditions or performance requirements shall NOT materially affect the basis of response evaluations or negatively impact the competitive nature of the RFP and Contractor selection process.
- 5.3.6 If the State determines that a response is non-responsive and rejects it after opening Cost Proposals, the Solicitation Coordinator will re-calculate scores for each remaining responsive Cost Proposal to determine (or re-determine) the apparent best-evaluated response.

RFP ATTACHMENT 6.1.**RFP # 32110-19402 STATEMENT OF CERTIFICATIONS AND ASSURANCES**

The Respondent must sign and complete the Statement of Certifications and Assurances below as required, and it must be included in the Technical Response (as required by RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A, Item A.1.).

The Respondent does, hereby, expressly affirm, declare, confirm, certify, and assure ALL of the following:

1. The Respondent will comply with all of the provisions and requirements of the RFP.
2. The Respondent will provide all services as defined in the Scope of the RFP Attachment 6.6., *Pro Forma* Contract for the total Contract Term.
3. The Respondent, except as otherwise provided in this RFP, accepts and agrees to all terms and conditions set out in the RFP Attachment 6.6., *Pro Forma* Contract.
4. The Respondent acknowledges and agrees that a contract resulting from the RFP shall incorporate, by reference, all proposal responses as a part of the Contract.
5. The Respondent will comply with:
 - (a) the laws of the State of Tennessee;
 - (b) Title VI of the federal Civil Rights Act of 1964;
 - (c) Title IX of the federal Education Amendments Act of 1972;
 - (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
 - (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
6. To the knowledge of the undersigned, the information detailed within the response submitted to this RFP is accurate.
7. The response submitted to this RFP was independently prepared, without collusion, under penalty of perjury.
8. No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Respondent in connection with this RFP or any resulting contract.
9. Both the Technical Response and the Cost Proposal submitted in response to this RFP shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the RFP.
10. The Respondent affirms the following statement, as required by the Iran Divestment Act Tenn. Code Ann. § 12-12-111: "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to §12-12-106." For reference purposes, the list is currently available online at: <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/library/public-information-library.html>.

By signing this Statement of Certifications and Assurances, below, the signatory also certifies legal authority to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If the signatory is not the Respondent (if an individual) or the Respondent's company *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to bind the Respondent.

DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO BIND THE RESPONDENT

SIGNATURE:

PRINTED NAME & TITLE:

DATE:

**RESPONDENT LEGAL ENTITY
NAME:**

RFP ATTACHMENT 6.2. — Section A

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION A: MANDATORY REQUIREMENTS. The Respondent must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below.

The Solicitation Coordinator will review the response to determine if the Mandatory Requirement Items are addressed as required and mark each with pass or fail. For each item that is not addressed as required, the Proposal Evaluation Team must review the response and attach a written determination. In addition to the Mandatory Requirement Items, the Solicitation Coordinator will review each response for compliance with all RFP requirements.

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		The Response must be delivered to the State no later than the Response Deadline specified in the RFP Section 2, Schedule of Events.	
		The Technical Response and the Cost Proposal documentation must be packaged separately as required (refer to RFP Section 3.2., <i>et. seq.</i>).	
		The Technical Response must NOT contain cost or pricing information of any type.	
		The Technical Response must NOT contain any restrictions of the rights of the State or other qualification of the response.	
		A Respondent must NOT submit alternate responses (refer to RFP Section 3.3.).	
		A Respondent must NOT submit multiple responses in different forms (as a prime and a subcontractor) (refer to RFP Section 3.3.).	
	A.1.	Provide the Statement of Certifications and Assurances (RFP Attachment 6.1.) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification.	
	A.2.	Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall cause to deliver goods or perform services under the contract has a possible conflict of interest (<i>e.g.</i> , employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	A.3.	Provide a current credit rating from Moody's, Standard & Poor's, A.M. Best or Fitch Ratings, verified and dated within the last three (3) months and indicating a positive credit rating for the Respondent OR , in lieu of the aforementioned credit rating, provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit score for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will <u>not</u> be considered responsive.)	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
	A.4.	Provide a statement confirming the Respondent, if awarded a Contract pursuant to this RFP, will accept the State's Purchasing Card as an optional form of payment, in accordance with RFP Section 4.9.3. and RFP Attachment 6.6, Pro Forma Contract Section C.9.	
Customer Service Mandatory Requirements			
	A.5.	Provide a statement confirming that the Respondent can supply at least 95% of items on the Core Items list.	
	A.6.	Provide a statement confirming that the Respondent's product offering in the Catalog submitted to RFP Attachment 6.3, Cost Proposal, includes all categories listed within RFP Attachment 6.6, Pro Forma Contract Section A.5.b.	
	A.7.	Provide a statement confirming the Respondent's capability to deliver to all current and potential delivery sites within the State.	
	A.8.	Provide a statement confirming that the Respondent, if awarded a Contract pursuant to this RFP, will assign an Account Manager, who shall be located in Tennessee, and is able to perform the duties outlined in RFP Attachment 6.6, Pro Forma Contract Section A.7.c.	

RFP ATTACHMENT 6.2. — SECTION B

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION B: GENERAL QUALIFICATIONS & EXPERIENCE. The Respondent must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below. Proposal Evaluation Team members will independently evaluate and assign one score for all responses to Section B— General Qualifications & Experience Items.

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.1.	Detail the name, e-mail address, mailing address, telephone number, and facsimile number of the person the State should contact regarding the response.
	B.2.	Describe the Respondent's form of business (<i>i.e.</i> , individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company) and business location (physical location or domicile).
	B.3.	Detail the number of years the Respondent has been in business.
	B.4.	Briefly describe how long the Respondent has been providing the goods or services required by this RFP.
	B.5.	Describe the Respondent's number of employees, client base, and location of offices.
	B.6.	Provide a statement of whether there have been any mergers, acquisitions, or change of control of the Respondent within the last ten (10) years. If so, include an explanation providing relevant details.
	B.7.	Provide a statement of whether the Respondent or, to the Respondent's knowledge, any of the employees, agents, independent Contractors, or subcontractors, involved in the delivery of goods or performance of services on a contract pursuant to this RFP, have been convicted of, pled guilty to, or pled <i>nolo contendere</i> to any felony. If so, include an explanation providing relevant details.
	B.8.	Provide a statement of whether, in the last ten (10) years, the Respondent has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors. If so, include an explanation providing relevant details.
	B.9.	Provide a statement of whether there is any material, pending litigation against the Respondent that the Respondent should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this RFP or is likely to have a material adverse effect on the Respondent's financial condition. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it would impair the Respondent's performance in a contract pursuant to this RFP. NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the Respondent to submit proof of license for each person or entity that renders such opinions.
	B.10.	Provide a statement of whether there are any pending or in progress Securities Exchange Commission investigations involving the Respondent. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it will impair the Respondent's performance in a contract pursuant to this RFP.

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the Respondent to submit proof of license for each person or entity that renders such opinions.
	B.11.	Provide a brief, descriptive statement detailing evidence of the Respondent's ability to deliver the goods or services sought under this RFP (e.g., prior experience, training, certifications, resources, program and quality management systems, <i>etc.</i>).
	B.12.	Provide a narrative description of the proposed project team, its members, and organizational structure along with an organizational chart identifying the key people who will be assigned to deliver the goods or services required by this RFP.
	B.13.	Provide a personnel roster listing the names of key people who the Respondent will assign to meet the Respondent's requirements under this RFP along with the estimated number of hours that each individual will devote to that performance. Follow the personnel roster with a resume for each of the people listed. The resumes must detail the individual's title, education, current position with the Respondent, and employment history.
	B.14.	Provide a statement of whether the Respondent intends to use subcontractors to meet the Respondent's requirements of any contract awarded pursuant to this RFP, and if so, detail: (a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each; (b) a description of the scope and portions of the goods each subcontractor involved in the delivery of goods or performance of the services each subcontractor will perform; <u>and</u> (c) a statement specifying that each proposed subcontractor has expressly assented to being proposed as a subcontractor in the Respondent's response to this RFP.
	B.15.	Provide documentation of the Respondent's commitment to diversity as represented by the following: (a) <u>Business Strategy</u> . Provide a description of the Respondent's existing programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises. also include a list of the Respondent's certifications as a diversity business, if applicable. (b) <u>Business Relationships</u> . Provide a listing of the Respondent's current contracts with business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises. Include the following information: (i) contract description; (ii) Contractor name and ownership characteristics (<i>i.e.</i> , ethnicity, gender, service-disabled veteran-owned or persons with disabilities); (iii) Contractor contact name and telephone number. (c) <u>Estimated Participation</u> . Provide an estimated level of participation by business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities and small business enterprises if a contract is awarded to the Respondent pursuant to this RFP. Include the following information: (i) a percentage (%) indicating the participation estimate. (Express the estimated participation number as a percentage of the total estimated contract value that will be dedicated to business with subcontractors and supply Contractors having such ownership characteristics only and DO NOT INCLUDE DOLLAR AMOUNTS); (ii) anticipated goods or services contract descriptions; (iii) names and ownership characteristics (<i>i.e.</i> , ethnicity, gender, service-disabled veterans, or disability) of anticipated subcontractors and supply Contractors.

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		<p>NOTE: In order to claim status as a Diversity Business Enterprise under this contract, businesses must be certified by the Governor's Office of Diversity Business Enterprise (Go-DBE). Visit the Go-DBE website at https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810 for more information.</p> <p>(d) <u>Workforce</u>. Provide the percentage of the Respondent's total current employees by ethnicity and gender.</p> <p>NOTE: Respondents that demonstrate a commitment to diversity will advance State efforts to expand opportunity to do business with the State as Contractors and subcontractors. Response evaluations will recognize the positive qualifications and experience of a Respondent that does business with enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises and who offer a diverse workforce.</p>
	B.16.	<p>Provide a statement of whether or not the Respondent has any current contracts with the State of Tennessee or has completed any contracts with the State of Tennessee within the previous five (5) year period. If so, provide the following information for all of the current and completed contracts:</p> <p>(a) the name, title, telephone number and e-mail address of the State contact knowledgeable about the contract;</p> <p>(b) the procuring State agency name;</p> <p>(c) a brief description of the contract's scope of services;</p> <p>(d) the contract period; and</p> <p>(e) the contract number.</p>
	B.17.	<p>Provide customer references from individuals who are <u>not</u> current or former State employees for projects similar to the goods or services sought under this RFP and which represent:</p> <ul style="list-style-type: none"> ▪ two (2) accounts Respondent currently services that are similar in size to the State; <u>and</u> ▪ three (3) completed projects. <p>References from at least three (3) different individuals are required to satisfy the requirements above, e.g., an individual may provide a reference about a completed project and another reference about a currently serviced account. The standard reference questionnaire, which <u>must</u> be used and completed, is provided at RFP Attachment 6.4. References that are not completed as required may be deemed non-responsive and may not be considered.</p> <p>The Respondent will be <u>solely</u> responsible for obtaining fully completed reference questionnaires and <u>ensuring they are e-mailed to the solicitation coordinator or</u> including them in the sealed Technical Response. The Respondent shall obtain and submit the completed reference questionnaires <u>following one of the two processes below</u>:</p> <p><u>Written:</u></p> <p>(a) Add the Respondent's name to the standard reference questionnaire at RFP Attachment 6.4. and make a copy for each reference.</p> <p>(b) Send a reference questionnaire and new, standard #10 envelope to each reference.</p> <p>(c) Instruct the reference to:</p> <ul style="list-style-type: none"> (i) complete the reference questionnaire; (ii) sign and date the completed reference questionnaire; (iii) seal the completed, signed, and dated reference questionnaire within the envelope provided; (iv) sign his or her name in ink across the sealed portion of the envelope; and

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		<p>(v) return the sealed envelope directly to the Respondent (the Respondent may wish to give each reference a deadline, such that the Respondent will be able to collect all required references in time to include them within the sealed Technical Response).</p> <p>(d) <u>Do NOT open the sealed references upon receipt.</u></p> <p>(e) Enclose all <u>sealed</u> reference envelopes within a larger, labeled envelope for inclusion in the Technical Response as required.</p> <p>E-mail:</p> <p>(a) Add the Respondent's name to the standard reference questionnaire at RFP Attachment 6.4. and make a copy for each reference.</p> <p>(b) E-mail the reference with a copy of the standard reference questionnaire.</p> <p>(c) Instruct the reference to:</p> <p>(i) complete the reference questionnaire;</p> <p>(ii) sign and date the completed reference questionnaire;</p> <p>(iii) E-mail the reference directly to the Solicitation Coordinator by the RFQ Technical Response Deadline with the Subject line of the e-mail as "[Respondent Name] Reference for RFP 32110-19402.</p> <p>NOTES:</p> <ul style="list-style-type: none"> ▪ The State will not accept late references or references submitted by any means other than the two which are described above, and each reference questionnaire submitted must be completed as required. ▪ The State will not review more than the number of required references indicated above. ▪ While the State will base its reference check on the contents of the reference e-mails or sealed reference envelopes included in the Technical Response package, the State reserves the right to confirm and clarify information detailed in the completed reference questionnaires, and may consider clarification responses in the evaluation of references. ▪ The State is under <u>no</u> obligation to clarify any reference information.
	B.18.	<p>Provide a statement and any relevant details addressing whether the Respondent is any of the following:</p> <p>(a) is presently debarred, suspended, proposed for debarment, or voluntarily excluded from covered transactions by any federal or state department or agency;</p> <p>(b) has within the past three (3) years, been convicted of, or had a civil judgment rendered against the contracting party from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;</p> <p>(c) is presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed above; and</p> <p>(d) has within a three (3) year period preceding the contract had one or more public transactions (federal, state, or local) terminated for cause or default.</p>
		<p>SCORE (for <u>all</u> Section B—Qualifications & Experience Items above): (maximum possible score = 10)</p>

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
<i>State Use – Evaluator Identification:</i>		

RFP ATTACHMENT 6.2. — SECTION C

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION C: TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH. The Respondent must address all items (below) and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below.

A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate and score the response to each item. Each evaluator will use the following whole number, raw point scale for scoring each item:

0 = little value 1 = poor 2 = fair 3 = satisfactory 4 = good 5 = excellent

The Solicitation Coordinator will multiply the Item Score by the associated Evaluation Factor (indicating the relative emphasis of the item in the overall evaluation). The resulting product will be the item's Raw Weighted Score for purposes of calculating the section score as indicated.

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
	C.1.	Illustrate the Respondent's understanding of the State's requirements and schedule of events, and how it plans to meet the State's schedule.		5	
	C.2.	Illustrate how the Respondent will complete the scope of services and accomplish required objectives.		5	
Core Items					
	C.3.	Describe the Respondent's proposed process for establishing, reviewing or refreshing Core Items, as outlined in RFP Attachment 6.6, Pro Forma Contract Section A.5.		5	
Shipping and Delivery					
	C.4.	Illustrate how the Respondent's warehouse and distribution system will ensure fulfillment and delivery requirements as defined in the scope of services.		4	
	C.5.	Describe the Respondent's fill rate (an order with 100% fill rate would have no backorders) metric. What is considered "acceptable" and what is considered "excellent"?		4	
	C.6.	Explain the Respondent's process for notifying end-users that items are out-of-stock if the company is not able to fill an order within the following business day.		3	
E-procurement					
	C.7.	Describe, in detail, the E-procurement's functionality currently available to other customers, including, but not limited to, its ability to restrict items to awarded categories, and ability to suggest Core items as an alternative to any Non-Core Items.		4	
	C.8.	Describe the E-procurement's ability to recommend substitute items if selected item is not readily available.		2	

RFP ATTACHMENT 6.2. — SECTION C (continued)

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
Data Management and Integrity					
	C.9.	Describe the process for notifying the State of any changes to the Core Items (including price changes, product discontinuation, changes to an item's UOM or pack size).		3	
Implementation and Transition					
	C.10.	Provide a description of the Respondent's timeline, milestones, and resources for implementation of the E-procurement.		2	
Customer Service and Account Management					
	C.11.	Outline the Respondent's Dedicated Account Management Team. Include the process for problem escalation.		2	
	C.12.	Describe the Respondent's customer service quality program.		1	
	C.13.	In addition to the E-procurement, outline additional purchasing methods that will guarantee State contract pricing provided by the Respondent.		3	
Invoicing					
	C.14.	Describe the Respondent's standard invoicing process.		3	
	C.15.	Describe, in detail, how invoices from backordered items will be handled.		2	
	C.16.	Describe the process for issuing credit memos for returned or damaged items, in accordance with Pro Forma Contract Section A.6.		3	
Reporting					
	C.17.	Provide a narrative on the standard reports that are currently provided to customers. Include examples of the most used reports.		2	
	C.18.	Describe the ability of the Reporting system to customize and create ad hoc reports. Also indicate how long it will take to generate such reports.		3	
	C.19.	Provide a description on the Respondent's ability to provide usage reporting in accordance with RFP Attachment 6.6, Pro Forma contract section A.3.		4	
<i>The Solicitation Coordinator will use this sum and the formula below to calculate the section score. All calculations will use and result in numbers rounded to two (2) places to the right of the decimal point.</i>					Total Raw Weighted Score: <i>(sum of Raw Weighted Scores above)</i>
Total Raw Weighted Score					= SCORE:
Maximum Possible Raw Weighted Score <i>(i.e., 5 x the sum of item weights above)</i>					
x 30 <i>(maximum possible score)</i>					

RFP ATTACHMENT 6.2. — SECTION C (continued)

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
<i>State Use – Evaluator Identification:</i>					
<i>State Use – Solicitation Coordinator Signature, Printed Name & Date:</i>					

RFP ATTACHMENT 6.3.**COST PROPOSAL & SCORING GUIDE****NOTICE: THIS COST PROPOSAL MUST BE COMPLETED EXACTLY AS REQUIRED**

COST PROPOSAL SCHEDULE— The Cost Proposal, detailed below, shall indicate the proposed price for goods or services defined in the Scope of Services of the RFP Attachment 6.6., *Pro Forma* Contract and for the entire contract period. The Cost Proposal shall remain valid for at least one hundred twenty (120) days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract resulting from this RFP. All monetary amounts shall be in U.S. currency and limited to two (2) places to the right of the decimal point.

Respondents are to complete a protected spreadsheet (“protected” so that Respondents may only insert proposed cost as required) provided by the State as an external attachment to the RFP in lieu of completing the cost proposal table illustrated in the guide.

The Respondent is required to submit a Catalog as part of the response to this RFP #32110-19402, that aligns with the requirements outlined in the Cost Proposal and RFP Attachment 6.6, Pro Forma Contract. This Catalog should contain all items the Respondent offers that fall within the categories listed within the Attachment 6.3 RFP 32110-19402 Cost Proposal v2.

NOTICE: The Evaluation Factor associated with each cost item is for evaluation purposes only. The evaluation factors do NOT and should NOT be construed as any type of volume guarantee or minimum purchase quantity. The evaluation factors shall NOT create rights, interests, or claims of entitlement in the Respondent.

Notwithstanding the cost items herein, pursuant to the second paragraph of the *Pro Forma* Contract section C.1. (refer to RFP Attachment 6.6.), “The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.”

This Cost Proposal must be signed, in the space below, by an individual empowered to bind the Respondent to the provisions of this RFP and any contract awarded pursuant to it. If said individual is not the *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to legally bind the Respondent.

Refer to “Attachment 6.3 RFP 32110-19402 Cost Proposal v2.xlsx”

RESPONDENT SIGNATURE:	
PRINTED NAME & TITLE:	
DATE:	
RESPONDENT LEGAL ENTITY NAME:	

OFFICE SUPPLIES EVALUATION			
(sum of evaluation costs above):			
The Solicitation Coordinator will use this sum and the formula below to calculate the Cost Proposal Score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.			
lowest evaluation cost amount from <u>all</u> proposals	x 60	=	
evaluation cost amount being evaluated	(maximum section score)	SCORE:	

RFP ATTACHMENT 6.3. (continued)

State Use – Solicitation Coordinator Signature, Printed Name & Date:

RFP ATTACHMENT 6.4.**REFERENCE QUESTIONNAIRE**

The standard reference questionnaire provided on the following pages of this attachment MUST be completed by all individuals offering a reference for the Respondent.

The Respondent will be solely responsible for obtaining completed reference questionnaires as required (refer to RFP Attachment 6.2., Technical Response & Evaluation Guide, Section B, Item B.17.).

RFP # 32110-19402 REFERENCE QUESTIONNAIRE

REFERENCE SUBJECT: RESPONDENT NAME (completed by Respondent before reference is requested)

The "reference subject" specified above, intends to submit a response to the State of Tennessee in response to the Request for Proposals (RFP) indicated. As a part of such response, the reference subject must include a number of completed and sealed reference questionnaires (using this form).

Each individual responding to this reference questionnaire is asked to follow these instructions:

- complete this questionnaire (either using the form provided or an exact duplicate of this document);
- sign and date the completed questionnaire; and follow either process outlined below;

Physical:

- seal the completed, signed, and dated questionnaire in a new standard #10 envelope;
- sign in ink across the sealed portion of the envelope; and
- return the sealed envelope containing the completed questionnaire directly to the reference subject.

E-mail:

- email the completed Questionnaire to the solicitation coordinator: James Vallone at James.Vallone@tn.gov

- (1) What is the name of the individual, company, organization, or entity responding to this reference questionnaire?
- (2) Please provide the following information about the individual completing this reference questionnaire on behalf of the above-named individual, company, organization, or entity.

NAME:	
TITLE:	
TELEPHONE #	
E-MAIL ADDRESS:	

- (3) What goods or services do /did the Respondent provide to your company or organization?
- (4) What is the level of your overall satisfaction with the Respondent of the goods or services described above?

Satisfied ☐ Not Satisfied ☐

Please check one box

- (5) Were the goods delivered or services completed in compliance with the terms of the contract, on time, and within budget?

Yes ☐ No ☐ Not Completed ☐

Please check one box

- (6) How satisfied are you with the Respondent's ability to perform based on your expectations and according to the contractual arrangements?

Satisfied ☐ Not Satisfied ☐

Please check one box

- (7) What is the level of your satisfaction with the Respondent's project management structures, processes, and personnel?

Satisfied ☐ Not Satisfied ☐

Please check one box

- (8) Would you contract again with the Respondent for the same or similar goods or services?

Satisfied ☐ Not Satisfied ☐

Please check one box

SIGNATURE:

(by the individual completing this
reference questionnaire)

(must be the same as the signature across the envelope seal)

DATE:

RFP ATTACHMENT 6.5.

SCORE SUMMARY MATRIX

	<i>RESPONDENT NAME</i>		<i>RESPONDENT NAME</i>		<i>RESPONDENT NAME</i>	
GENERAL QUALIFICATIONS & EXPERIENCE (maximum: 10)						
EVALUATOR #1						
EVALUATOR #2						
EVALUATOR #3						
EVALUATOR #4						
EVALUATOR #5						
EVALUATOR #6						
	AVERAGE:		AVERAGE:		AVERAGE:	
TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH (maximum: 30)						
EVALUATOR #1						
EVALUATOR #2						
EVALUATOR #3						
EVALUATOR #4						
EVALUATOR #5						
EVALUATOR #6						
	AVERAGE:		AVERAGE:		AVERAGE:	
COST PROPOSAL (maximum: 60)	SCORE:		SCORE:		SCORE:	
TOTAL RESPONSE EVALUATION SCORE: (maximum: 100)						

Solicitation Coordinator Signature, Printed Name & Date:

RFP ATTACHMENT 6.6.

RFP # 32110-19402 *PRO FORMA* CONTRACT

The *Pro Forma* Contract detailed in following pages of this exhibit contains some “blanks” (signified by descriptions in capital letters) that will be completed with appropriate information in the final contract resulting from the RFP.

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF GENERAL SERVICES, CENTRAL PROCUREMENT OFFICE
AND
CONTRACTOR NAME**

This Contract, by and between the State of Tennessee, Department of General Services ("State") and **Contractor Legal Entity Name** ("Contractor"), is for the provision of Office Supplies, as further defined in the "SCOPE." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

The Contractor is **a/an Individual, For-Profit Corporation, Non-Profit Corporation, Special Purpose Corporation Or Association, Partnership, Joint Venture, Or Limited Liability Company.**

Contractor Place of Incorporation or Organization: **Location**

Contractor Edison Registration ID # **Number**

A. SCOPE:

A.1. The Contractor shall provide all goods or services and deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract.

A.2. Definitions. For purposes of this Contract, definitions shall be as follows and as set forth in the Contract:

Catalog – This term shall mean the price list submitted in response to RFP #32110-19402, and will become part of RFP Attachment 6.6, Contract Attachment C. This Catalog shall contain all Core and Non-Core Items. This Catalog shall contain, at a minimum, list price, item description, and part numbers for all goods and services being offered within the scope of this Contract.

Core Item – This term shall mean a State-designated list of items in the Catalog that the State anticipates purchasing frequently. Also, this term shall have the meaning as ascribed to it in Section A.5.

E-Procurement – This term shall mean an online or punch-out Catalog to the Contractor's web-based ordering platform, which integrates with the State's Oracle PeopleSoft solution via Commerce eXtensible Markup Language.

Green Purchasing – This term shall mean goods that are purchased that support environmental values and sustainability goals. The Contractor is required for monthly reporting to flag these purchases.

Non-Core Items – This term shall mean all items within a product category that are not designated by the State as Core Items. These items are available for purchase on contract based on a discounted price from the Contractor's Catalog.

Office Supplies – This term shall have the meaning as ascribed to it in Section A.

Volume Rebate – This term shall mean the payment from the Contractor to the State based upon spend on contract, as ascribed in Contract Section C.12.

A.3. Reporting. Reporting shall provide statistical data on all purchases made from the Contract by Authorized Users.

a. Monthly Sales Report. The Monthly Usage Report will be detailed and broken down by line item and include, but not be limited to the following:

- i. Name of Authorized User entity;
- ii. Identity of purchaser: State entity or non-State entity;
- iii. Product Category;
- iv. Contractor Item Number;
- v. Commodity Description;

- vi. Contractor's List Price;
- vii. Contract Price;
- viii. Unit of Measure (UOM);
- ix. Core List/Catalog Item Flag;
- x. Assortment Item Flag;
- xi. Brand/Manufacturer;
- xii. Model Number/Manufacturer Number;
- xiii. Line Item Quantity Purchased;
- xiv. Line Item Dollar Amount (Volume) Purchased;
- xv. Ship Date;
- xvi. Delivery Date;
- xvii. UNSPSC Code;
- xviii. P-Card Flag (indicates if the transaction was paid using a P-card);
- xix. Green Purchasing flag.

b. Quarterly Business Review (QBR). The parties will hold a quarterly business review meeting (a "QBR") for the purposes of assessing the parties' progress in fulfillment of the obligations assumed in this Agreement and addressing and attempting to resolve such other issues as either party wishes to present for review and consideration at the QBR meetings. The QBR meetings shall be held via videoconference or in-person at the Tennessee Department of General Services, Central Procurement Office in Nashville, Tennessee.

c. Annual Report. A final, cumulative annual report within forty-five (45) days after the end of each year of the Term is required. In addition, the Contractor shall continually monitor the effectiveness of this Contract and its impact on the State, including data collection, trends and analyses, Contractor shall meet with the State and mutually agree on the data at the Contractor is required to submit.

d. Monthly Pricing Audit Report. Each month during the Term, the State shall be permitted to audit up to 15 Core Items and 15 Non-Core Items of the State's choosing. Documentation shall be provided by the Contractor and include, at a minimum, the list price, price charged, price paid, the Contractor's cost at the date of purchase order, and include any applicable discount.

e. Custom Reports. The Contractor shall provide mutually agreed upon custom reports, as requested periodically by the State, at no additional charge to the State.

A.4. Service Level Agreements.

a. Order Confirmation. Contractor shall provide acknowledgement, in writing, of receipt of a purchase order and placement of an order within two (2) hours of receipt of a purchase order.

b. Purchase Orders. All goods and services to be provided under this Contract shall be ordered by issuance of a purchase order document or purchase order number. The purchase order will indicate the detailed item description and shall include the details outlined in subsections 1 through 4 below. All purchase orders are subject to the terms and conditions of this Contract. In the event of any conflict between a purchase order and this Contract, this Contract shall control.

i. Purchase Order: Each purchase order shall reference this Contract by name and number and must be signed by an authorized signatory. Each purchase order shall include the following information at a minimum:

1. Ship to address;
2. Bill to address;
3. Total Invoice Amount; and

4. Details about the goods or service being provided – model number and all accessories shall be noted.

c. Delivery. The Contractor shall deliver all goods within one (1) business day of purchase order issued. Standard delivery of all goods will be inside, unless otherwise stated on the Authorized User's purchase order. "Inside" means any location within an Authorized User's occupied building.

i. Shipping Confirmation. Contractor shall provide acknowledgement, in writing, of manufacturer's ship date within one (1) day of receipt of a purchase order and subsequent order placement.

ii. Delivery Confirmation. Contractor shall provide acknowledgement, in writing, of arrival of any goods and the receipt of these goods by an Authorized User within two (2) or more business days.

d. Backorders. If an item is on backorder (not scheduled for delivery for two (2) business days or more), the Contractor shall notify the Authorized User, which shall then decide whether to accept late delivery or cancel the item from the order.

e. F.O.B. Destination. All goods shall be delivered F.O.B. Destination.

A.5. Item Requirements – Core and Non-Core.

a. Core Items. These items are available for purchase on contract based on a fixed unit price and must be kept in stock by the supplier. The Contractor shall be required to review and revise the Core Item list each Annual Period based upon the items ordered by the State during the previous Annual Period. The initial Core Item list for the first Annual Period shall cover between 30-40% of the State's spend. After the first Annual Period and for the remainder of the Term of the Contract, the Contractor shall provide a Core Item list that covers in excess of 50% of the State's spend. The State shall have the final approval of each Annual Period's revised Core Item list offerings. Price changes for Core Items shall only be conducted in accordance with Section C.2., Price Changes.

b. Catalog. The Contractors Catalog submitted in response to RFP #32110-19402, will be incorporated into Contract Attachment C. The Contractors Catalog shall contain, at a minimum, list price, offer price, item description, manufacturer, and manufacturer part numbers for all Office Supplies Core Items and Non-Core Items within the scope of this Contract. The Office Supplies categories within the scope of this Contract include, but may not be limited to, the following:

Ink and Toner		
Cleaning Units and Waste Toner	OEM Drums / Developer Belts	OEM Laser Toner Cartridge
Compatible Toner	OEM Fax Cartridges	Remanufactured Drums / Developer Belts
Maintenance and Transfer Kits	OEM Inkjet Cartridge	Remanufactured Inkjet Cartridge
		Remanufactured Laser Toner Cartridge
General Office Supplies		
Appointment Books	Highlighters	Pens
Art and Craft Supplies	Journal, Ledger, and Record	Permanent Markers
Backpacks, Cases and Rolling Cases	Labeling Equipment and Supplies	Presentation and Accessories
Badges and Lanyards	Literature Holders	Staplers, Punches and Supplies
Binders and Accessories	Mailing Supplies	Stationery, Cards and Card Stock
Calendars	Notebooks and Writing Pads	Tape, Adhesives and Fasteners
Computer Fax and Add Rolls	Organization Sets, Tools and Accessories	Teaching Aids
Filing, Forms, and Envelopes	Pencils	Tools and Measuring Devices
Technology		
Cables, Adapters and Hubs	Document Scanners	Mobile Phone Accessories
CDR/DVD Media	Ergonomic Accessories	Monochrome Laser Single Function Printer
Color Laser Single Function Printer	Extension Cords, Power Strips and Surge Protectors	Multimedia Projector
Computer Cleaning and Maintenance	Inkjet Printers	Office Electronics
Data Storage	Machines and Supplies	PC and Laptop Locks
Digital Cameras	Mice and Keyboards	Printer Accessories
		Shredders

c. Excluded Categories. Office Supplies categories that are excluded from this contract include the following:

Laptops; Desktop Computers; Telephones; Televisions; Copy Paper; Colored Copy Paper; Photo Paper; All-in-one Printers

- i. The State reserves the right to block additional categories not listed in this section, in accordance with Section A.8.b.

A.6. Damaged Deliveries.

a. Responsibility. The Contractor shall be responsible for packaging all Items necessary to safeguard such Items from damage during shipment. Deliveries of damaged merchandise, incorrect Items, or incorrect quantities shall be corrected the following business day.

b. Rejected Items or Late Delivery. In the event the Contractor fails to meet the requested delivery date, the Authorized User may cancel such order at that time, provided equipment has not been shipped from the Contractor's warehouse.

c. Returns and Restocking Fee. The State requires that each Contractor have no return or restocking fees for any products returned within thirty (30) days of receipt.

i. All returns are to be credited within fifteen (15) business days of receipt.

A.7. Customer Service Plan. The State requires a service organization capable of servicing the entire State. The sales force will maintain close communications with the State and will be the primary contacts.

a. Response Time. The Contractor shall provide a maximum forty-eight (48) hour response time to all inquiries.

b. Hours of Customer Service. The Contractor shall provide customer service operation Monday - Friday, 7:00 am to 5:00 pm CST. All orders placed before 2:00pm CST shall be delivered by Contractor following standards set above in Section A.4. Service Level Agreements.

c. Account Manager. The Contractor shall supply an Account Manager to be the first point of contact with the State regarding this Contract, who shall be available in Nashville, Tennessee by the following business day at the office of Tennessee Department of General Services, Central Procurement Office if an occasion arises in the State's sole discretion that deems such a trip necessary. The Account Manager will be required to attend and participate in the QBR outlined in Section A.3.b. The Account Manager shall be familiar with this Contract, the State Agencies, and be prepared to handle all service issues and billing inquiries promptly.

A.8. E-Procurement Supplemental Category Management Functionality.

a. Overview and Commitment. The Contractor shall participate in the TN SmartShop initiative. TN SmartShop is an e-marketplace of active statewide contracts where Authorized Users can leverage the buying power of the State to purchase goods and services.

b. Online Catalog Capabilities. The Contractor shall provide and maintain an up-to date online catalog ("E-Procurement") containing all Core Items and Non-Core Items available for purchase under this Contract. The E-Procurement must have in-stock and out-of-stock status, identify Core Items, and identify green, or environmentally friendly, products. The E-Procurement shall have the capability to advise end users on alternative items that are available. The E-Procurement shall have the capability to block, or not allow, categories or specific items that are deemed by the State, at its sole discretion, to not be within the scope of the contract.

A.9. Substitute Items Offered by the Contractor. In the event that an ordered item is no longer being manufactured or is replaced by a functionally equivalent item with superior technological features to the item being replaced, Contractor may offer a substitute item ("Substitute"). The Substitute shall: (a) meet or exceed the functional, technical, and performance characteristics of the item being replaced; (b) not exceed the cost of the item being replaced; and (c) be available for order on the date Contractor requests to make the substitution. Contractor

shall not make any substitutions for awarded items without the State's prior, written approval. Contractor shall submit any proposed substitutions to the Central Procurement Office and include sufficient information to show that criteria (a) -- (c) above are met.

- A.10. Warranty. Contractor represents and warrants that the term of the warranty ("Warranty Period") shall be the greater of the Term of this Contract or any other warranty generally offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a "Defect" and shall be considered "Defective." If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect, at no additional charge.

Contractor represents and warrants that the State is authorized to possess and use all equipment, materials, software, and deliverables provided under this Contract.

Contractor represents and warrants that all goods or services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, and in conformity with standards generally accepted in Contractor's industry.

If Contractor fails to provide the goods or services as warranted, then Contractor will re-provide the goods or services at no additional charge. If Contractor is unable or unwilling to re-provide the goods or services as warranted, then the State shall be entitled to recover the fees paid to Contractor for the Defective goods or services. Any exercise of the State's rights under this Section shall not prejudice the State's rights to seek any other remedies available under this Contract or applicable law.

- A.11. Inspection and Acceptance. The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

B. TERM OF CONTRACT:

- B.1. Initial Term. This Contract shall be effective on July 1, 2020 ("Effective Date") and extend for a period of twelve (12) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.
- B.2. Renewal Options. This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to four (4) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.
- B.3. Term Extension. The State may extend the Term an additional period of time, not to exceed one hundred-eighty (180) days beyond the expiration date of this Contract, under the same terms and conditions, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Estimated Liability. The total purchases of any goods or services under the Contract are not known. The State estimates the purchases during the Term shall be Forty-Four Million Dollars (\$44,000,000.00) ("Estimated Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor

will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

C.2 Price Changes.

- a. Core Items. Prices listed in awarded published catalog, price lists or price schedule for Core Items shall remain firm for three hundred sixty-five (365) days ("Core Item Firm Price Period"). Price increases for these Core Items shall be processed only after the State and Contractor agree to the revised Core Item list at the end of each Annual Period (in accordance with Section A.5., Item Requirements – Core and Non-Core). The Core Item Firm Price Period shall then reset until the Core Item list is revised at the end of the following Annual Period.
 - i. Price Decreases. After the Firm Price Period, prices shall be equitably adjusted to reflect a decrease in Contractor's costs.
 - ii. Price Increases. After the Firm Price Period, Contractor may request price increases. The request shall: include copies of the new price lists or catalog that reflect a change in the Contractor's cost; not constitute an increase in profit; and apply to all of the Contractor's customers.
 - iii. Approval of Price Changes. The State may at its sole option: (1) grant the Contractor's request; (2) cancel the Contract and award it to the next apparent best evaluated Respondent; (3) cancel the Contract and reissue the solicitation; or (4) deny the Contractor's request. If approved, any price changes of less than seven percent (7%) will become effective upon the State's approval in writing. Price changes exceeding seven percent (7%) shall require a Contract amendment. The Contractor shall honor all purchase orders dated prior to the approved price change. Upon request from the State, the Contractor shall furnish the approved catalog, price schedule or price list as applicable to the State at no charge.
- b. Non-Core Items. The discount rates submitted for all categories of the Catalog for Non-Core Items shall remain firm throughout the Term of the Contract. Unit Prices listed in awarded published catalog, price lists or price schedule for Non-Core Items shall remain firm for ninety (90) days ("Non-Core Item Firm Price Period").
 - i. Catalog Price Changes. After the Non-Core Item Firm Price Period, the Contractor shall be allowed to update its approved Catalog every ninety (90) days. These catalog updates may be used to change catalog item pricing and product numbers in accordance with the terms and conditions outlined in this Contract. The Contractor may increase and shall decrease the unit list price of individual products during these updates to reflect changes in the Catalog or price lists. These new prices shall apply to all of the Contractor's customers. The Contractor shall honor all purchase orders dated prior to the approved price change. Upon request from the State, the Contractor shall furnish the approved catalog, price schedule or price list, or proof of such price changes as applicable to the State at no charge.

C.3. Payment Methodology. Contractor shall be compensated based on the payment rates for goods or services contained in Contract Attachment C and as authorized by the State in a total amount as set forth in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.

C.5. Invoice Requirements. The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month, and no later than thirty (30) days after goods or services have

been provided to the following address:

State Agency Billing Address

- a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):
 - i. Invoice number (assigned by the Contractor);
 - ii. Invoice date;
 - iii. Contract number (assigned by the State);
 - iv. Customer account name: State Agency & Division Name;
 - v. Customer account number (assigned by the Contractor to the above-referenced Customer);
 - vi. Contractor name;
 - vii. Contractor Tennessee Edison registration ID number;
 - viii. Contractor contact for invoice questions (name, phone, or email);
 - ix. Contractor remittance address;
 - x. Description of delivered goods or services provided and invoiced, including identifying information as applicable;
 - xi. Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
 - xii. Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
 - xiii. Amount due for each compensable unit of good or service; and
 - xiv. Total amount due for the invoice period.
 - b. Contractor's invoices shall:
 - i. Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;
 - ii. Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
 - iii. Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
 - iv. Include shipping or delivery charges only as authorized in this Contract.
 - c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that meets the minimum requirements of this Section C.5.
- C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.
- C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation. At the State's option, it

may make payments to Contractor by automated clearing house ("ACH") or the State Purchasing Card ("P-Card").

- a. The Contractor shall complete, sign, and present to the State:
 - i. An "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
 - ii. An "Authorization to Receive Payments by Purchasing Card Form" provided by the State. By doing so, the Contractor agrees that payments to the Contractor under this Contract may be made using the State P-Card and Contractor will provide level III data reporting information.
 - b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.
- C. 10. Minimum Order. The Contractor shall not require minimum quantity limitations for any purchase order issued under this Contract. The minimum order under this Contract is twenty-five dollars (\$25). The Contractor shall not be obligated to honor any purchase order with a total under that threshold.
- C.11. Retail Store Pricing. If the Contractor has physical retail locations, the Contractor shall honor the pricing outlined in this Contract to any Authorized User who makes retail store purchases at one of the Contractor's physical locations.
- C.12. Rebate. Contractor shall pay to the State a Volume Rebate of 2% that is aggregated Net Sales during each Annual Period during the Term, to be paid within forty-five (45) calendar days after the end of each Annual Period. All Net Sales under this Contract shall count towards Volume Rebate.

Contractor shall submit payments to:
 Ron Plumb, Director of Financial Management
 Department of General Services 22nd Floor, William R Snodgrass, Tennessee Tower
 312 Rosa L. Parks Avenue
 Nashville, TN 37243

D. MANDATORY TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.
- D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.

The State:

James Vallone, Category Specialist
 Department of General Services, Central Procurement Office
 312 Rosa L. Parks Ave
 James.Vallone@tn.gov
 Telephone # 615-253-8528

The Contractor:

Contractor Contact Name & Title**Contractor Name****Address****Email Address****Telephone # Number****FAX # Number**

All instructions, notices, consents, demands, or other communications shall be considered effective upon receipt or recipient confirmation as may be required.

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials. The State's exercise of a valid Renewal Option or Term Extension does not constitute an amendment so long as there are no other changes to the Contract's terms and conditions.
- D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.
- D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.
- D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"), the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.
- D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime Contractor and responsible for compliance with all terms and conditions of this

Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.

- D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

- D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

- D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

- a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment A, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.
- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.
- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
- d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.
- e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or

regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.

- D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.
- D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.
- D.16. Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless from any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.
- D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. Notwithstanding anything else herein, the State's total liability under this Contract (including without limitation any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Estimated Liability. This limitation of liability is cumulative and not per incident.
- D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Estimated Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death.

- D.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys' fees, court costs, expert witness fees, and other litigation expenses for the State to enforce the terms of this Contract.

In the event of any suit or claim, the Parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

- D.20. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Contract.

- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.
- d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.

- D.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent Contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.

- D.22. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.

D.23. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded, disqualified, or presently fall under any of the prohibitions of sections a-d.

D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees for the affected obligations until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.

D.25. State and Federal Compliance. The Contractor shall comply with all State and federal laws and regulations applicable to Contractor in the Contractor's performance of this Contract.

D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and

agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 408.

- D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
 - b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes Attachments A-C;
 - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
 - d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
 - e. any technical specifications provided to proposers during the procurement process to award this Contract; and
 - f. the Contractor's response seeking this Contract.
- D.31. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Contract. The Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.32. Insurance. Contractor shall maintain insurance coverage as specified in this Section. The State reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor's failure to maintain or submit evidence of insurance coverage, as required, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall immediately notify the State. All insurance companies providing coverage must be: (a) acceptable to the State; (b) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (c) rated A- / VII or better by A.M. Best. All coverage must be on a primary basis and noncontributory with any other insurance or self-insurance carried by the State. Contractor agrees to name the State as an additional insured on any insurance policy with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) insurance. All policies must contain an endorsement for a waiver of subrogation in favor of the State. Any deductible or self insured retention ("SIR") over fifty thousand dollars (\$50,000) must be approved by the State. The deductible or SIR and any premiums are the Contractor's sole responsibility. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

To achieve the required coverage amounts, a combination of an otherwise deficient specific policy and an umbrella policy with an aggregate meeting or exceeding the required coverage amounts is acceptable. For example: If the required policy limit under this Contract is for two

million dollars (\$2,000,000) in coverage, acceptable coverage would include a specific policy covering one million dollars (\$1,000,000) combined with an umbrella policy for an additional one million dollars (\$1,000,000). If the deficient underlying policy is for a coverage area without aggregate limits (generally Automobile Liability and Employers' Liability Accident), Contractor shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area. In the event that an umbrella policy is being provided to achieve any required coverage amounts, the umbrella policy shall be accompanied by an endorsement at least as broad as the Insurance Services Office, Inc. (also known as "ISO") "Noncontributory—Other Insurance Condition" endorsement or shall be written on a policy form that addresses both the primary and noncontributory basis of the umbrella policy if the State is otherwise named as an additional insured.

Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer's National Association of Insurance Commissioners (NAIC) number and be signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) business days prior to the Effective Date and again thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that subcontractors are included under the Contractor's policy. At any time, the State may require Contractor to provide a valid COI. The Parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead Contractor shall provide a certificate of self-insurance or a letter, on Contractor's letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses. The State reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

The insurance obligations under this Contract shall be: (1)—all the insurance coverage and policy limits carried by the Contractor; or (2)—the minimum insurance coverage requirements and policy limits shown in this Contract; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and minimum required policy limits, which are applicable to a given loss, shall be available to the State. No representation is made that the minimum insurance requirements of the Contract are sufficient to cover the obligations of the Contractor arising under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.

a. Commercial General Liability ("CGL") Insurance

- 1) The Contractor shall maintain CGL, which shall be written on an ISO Form CG 00 01 occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises and operations products and completed operations, bodily injury, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). The Contractor shall maintain single limits not less than one million dollars (\$1,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this policy or location of

occurrence or the general aggregate limit shall be twice the required occurrence limit.

b. Workers' Compensation and Employer Liability Insurance

1) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:

- i. Workers' compensation in an amount not less than one million dollars (\$1,000,000) including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease.

b. If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:

- i. The Contractor employs fewer than five (5) employees;
- ii. The Contractor is a sole proprietor;
- iii. The Contractor is in the construction business or trades with no employees;
- iv. The Contractor is in the coal mining industry with no employees;
- v. The Contractor is a state or local government; or
- vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

c. Automobile Liability Insurance

- 1) The Contractor shall maintain automobile liability insurance which shall cover liability arising out of any automobile (including owned, leased, hired, and non-owned automobiles).
- 2) The Contractor shall maintain bodily injury/property damage with a limit not less than one million dollars (\$1,000,000) per occurrence or combined single limit.

D.33. Major Procurement Contract Sales and Use Tax. Pursuant to Tenn. Code Ann. § 4-39-102 and to the extent applicable, the Contractor and the Contractor's subcontractors shall remit sales and use taxes on the sales of goods or services that are made by the Contractor or the Contractor's subcontractors and that are subject to tax.

D.34. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.
- E.2. State Ownership of Goods. The State shall have ownership, right, title, and interest in all goods provided by Contractor under this Contract including full rights to use the goods and transfer title in the goods to any third parties.
- E.3. Additional lines, items, or options. At its sole discretion, the State may make written requests to the Contractor to add lines, items, or options that are needed and within the Scope but were not included in the original Contract. Such lines, items, or options will be added to the Contract through a Memorandum of Understanding ("MOU"), not an amendment.
- a. After the Contractor receives a written request to add lines, items, or options, the Contractor shall have ten (10) business days to respond with a written proposal. The Contractor's written proposal shall include:
 - (1) The effect, if any, of adding the lines, items, or options on the other goods or services required under the Contract;
 - (2) Any pricing related to the new lines, items, or options;
 - (3) The expected effective date for the availability of the new lines, items, or options; and
 - (4) Any additional information requested by the State.
 - b. The State may negotiate the terms of the Contractor's proposal by requesting revisions to the proposal.
 - c. To indicate acceptance of a proposal, the State will sign it. The signed proposal shall constitute a MOU between the Parties, and the lines, items, or options shall be incorporated into the Contract as if set forth verbatim.
 - d. Only after a MOU has been executed shall the Contractor perform or deliver the new lines, items, or options.
- E.4. Extraneous Terms and Conditions. Contractor shall fill all orders submitted by the State under this Contract. No purchase order, invoice, or other documents associated with any sales, orders, or supply of any good or service under this Contract shall contain any terms or conditions other than as set forth in the Contract. Any such extraneous terms and conditions shall be void, invalid and unenforceable against the State. Any refusal by Contractor to supply any goods or services under this Contract conditioned upon the State submitting to any extraneous terms and conditions shall be a material breach of the Contract and constitute an act of bad faith by Contractor.
- E.5. Unencumbered Personnel. The Contractor shall not restrict its employees, agents, subcontractors or principals who perform services for the State under this Contract from performing the same or similar services for the State after the termination of this Contract, either as a State employee, an independent Contractor, or an employee, agent, subcontractor or principal of another contractor with the State.
- E.6. Prohibited Advertising or Marketing. The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.
- E.7. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response to RFP #32110-19402 (Attachment B) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a monthly report of participation in the performance of

this Contract by small business enterprises and businesses owned by minorities, women, service-disabled veterans, and persons with disabilities. Such reports shall be provided to the State of Tennessee Governor's Office of Diversity Business Enterprise in the TN Diversity Software available online at:

<https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810>

E.8. Statewide Contract. This Contract establishes a source or sources of supply for all Tennessee State Agencies. "Tennessee State Agency" refers to the various departments, institutions, boards, commissions, and agencies of the executive branch of government of the State of Tennessee with exceptions as addressed in Tenn. Comp. R. & Regs. 0690-03-01-.01. The Contractor shall provide all goods or services and deliverables as required by this Contract to all Tennessee State Agencies. The Contractor shall make this Contract available to the following entities, who are authorized to and who may purchase off of this Statewide Contract ("Authorized Users"):

- a. all Tennessee State governmental entities (this includes the legislative branch; judicial branch; and, commissions and boards of the State outside of the executive branch of government);
- b. Tennessee local governmental agencies;
- c. members of the University of Tennessee or Tennessee Board of Regents systems;
- d. any private nonprofit institution of higher education chartered in Tennessee; and,
- e. any corporation which is exempted from taxation under 26 U.S.C. Section 501(c) (3), as amended, and which contracts with the Department of Mental Health and Substance Abuse to provide services to the public (Tenn. Code Ann. § 33-2-1001).

These Authorized Users may utilize this Contract by purchasing directly from the Contractor according to their own procurement policies and procedures. The State is not responsible or liable for the transactions between the Contractor and Authorized Users.

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF GENERAL SERVICES:

MICHAEL F. PERRY, CHIEF PROCUREMENT OFFICER

DATE

ATTACHMENT A**ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	
EDISON SUPPLIER IDENTIFICATION NUMBER:	

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. Attach evidence documenting the individual's authority to contractually bind the Contractor, unless the signatory is the Contractor's chief executive or president.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION

ATTACHMENT B**SAMPLE LETTER OF DIVERSITY COMMITMENT****(Company Letterhead/Logo)****(Address)****(Date)****(Salutation),**

(Company Name) is committed to achieving or surpassing a goal of **(numeral)** percent spend with certified diversity business enterprise firms on State of Tennessee contract # **(Edison document #)**. Diversity businesses are defined as those that are owned by minority, women, small business and Tennessee service-disabled veterans which are certified by the Governor's Office of Diversity Business Enterprise (Go-DBE).

We confirm our commitment of **(percentage)** participation on the **(Contract)** by using the following diversity businesses:

(i) Name and ownership characteristics (i.e., ethnicity, gender, Tennessee service-disabled veteran) of anticipated diversity subcontractors and suppliers:

(ii) Participation estimates (expressed as a percent of the total contract value to be dedicated to diversity subcontractors and suppliers):

_____%.

(iii) Description of anticipated services to be performed by diversity subcontractors and suppliers:

We accept that our commitment to diversity advances the State's efforts to expand opportunity of diversity businesses to do business with the State as Contractors and sub-contractors.

Further, we commit to:

1. Using applicable reporting tools that allow the State to track and report purchases from businesses owned by minority, women, Tennessee service-disabled veterans and small business.
2. Reporting quarterly to the Go-DBE office the dollars spent with certified diversity businesses owned by minority, women, Tennessee service-disabled veterans and small business accomplished under contract # **(Edison number)**.

(Company Name) is committed to working with the Go-DBE office to accomplish this goal.

Regards,

(Company authority – signature and title)

ATTACHMENT C

PRICING AND CATALOG

This a placeholder for the awarded Contractor's Catalog and Cost Proposal information submitted in response to RFP #32110-19402 and will be inserted prior to execution of Contract.